

MINUTES
WARRICK COUNTY AREA BOARD OF ZONING APPEALS

Regular meeting held in the Commissioners Meeting Room,
Third Floor, Historic Courthouse,
Boonville, Indiana

January 26, 2015 at 6:00 P.M.

PLEDGE OF ALLEGIANCE – A moment of silence was held followed by the Pledge of Allegiance.

MEMBERS PRESENT: Tina Baxter, Doris Horn, Mike Moesner, Jeff Valiant, Jeff Willis and Mike Winge.

Also present were Morrie Doll, Attorney, Sherri Rector, Executive Director and Sheila Lacer, Staff.

MEMBERS ABSENT: Terry Dayvolt.

Roll call was taken and a quorum declared present.

ELECTION OF OFFICERS:

The Executive Director said the first order of business is to elect a Chairman of the Warrick County Board of Zoning Appeals to serve during 2015.

Mike Winge made a motion to nominate Jeff Valiant. Doris Horn seconded the motion.

Mike Winge made a motion to close nominations and elect Jeff Valiant as Chairman by acclamation. The motion was seconded by Doris Horn and unanimously carried.

Jeff Valiant stated they now need to elect a Vice-Chairman of the Warrick County Board of Zoning Appeals to serve during 2015.

Jeff Willis made a motion to nominate Mike Winge. Doris Horn seconded the motion.

Mike Moesner made a motion to close the nominations and elect Mike Winge as Vice-Chairman by acclamation. The motion was seconded by Doris Horn and unanimously carried.

APPOINTMENT OF ATTORNEY:

Mrs. Rector said the Plan Commission has appointed Attorney Doll for another year and has signed the contract. She said they need to approve the contract as well.

Mike Winge made a motion to approve the contract and appoint Attorney Doll for another year. The motion was seconded by Doris Horn and unanimously carried.

SET MEETING DATES, TIME, AND PLACE:

Doris Horn made a motion the regular meetings are to be held on the 4th Monday at 6:00 PM of each month in Commissioners Meeting Room, Third Floor, Court House, Boonville, Indiana; except for May (will be Tuesday following 4th Monday, May 26, 2015), November (will be November 16, 2015, 3rd Monday) and December (will be December 21, 2015, 3rd Monday) due to the holidays. The motion was seconded by Mike Winge and unanimously carried.

ADOPTION OF RULES AND REGULATIONS:

Mrs. Rector said there are no changes in the Rules from last year.

Doris Horn made a motion to adopt the Rules of Procedure. The motion was seconded by Mike Moesner and unanimously carried.

The Chairman explained the Rules of Procedure to the audience.

MINUTES: Upon a motion made by Mike Winge and seconded by Jeff Willis, the Minutes of the last regular session held December 15, 2014 were approved as circulated.

VARIANCES:

BZA-V-15-01 APPLICANT/OWNER: William & Kimberly Waterbury

PREMISES: Property located on the E side of Russell Rd. Approximately 66 ft S of the intersection formed by Maple Heights Dr. and Russell Rd. Ohio Twp. 822 *Russell Road. Complete legal on file*

NATURE OF CASE: Applicant requests a Variance from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow an Improvement Location Permit for to be issued for an addition to residence not meeting minimum 10' setback requirement between structures in an "A" Agriculture zoning district. *Advertised in the Standard January 15, 2015.*

William and Kimberly Waterbury were present.

The Chairman called for a staff report.

Mrs. Rector stated they still need to submit either the green card or returned envelope from certified mail of notice of this meeting for Karen Adams. She said all others have been submitted. She said there is an existing single family dwelling and unattached accessory building on the property and the surrounding property to the north, south and east is zoned Agriculture with residences; to the west is zoned R-1A, Maple Heights Subdivision with residences. She said

there is no flood plain on the property and there is an existing driveway off Russell Road. She explained they are asking to be allowed to add on to their house and only be five feet from the unattached garage. Mrs. Rector said the applicant states on the application *I Kimberly Waterbury am asking Warrick County for a Variance permit for our home located at 822 Russell Road Chandler Indiana. The main reason for this request is to add on to our existing home in order for my mother Dorothy Schneider to come live with us safely. My mother has fractured her back, pelvis and leg all within this past year. Her orthopedic physician has suggested she not live alone. She is currently at Hamilton Pointe for rehab. Our home is too small and not handicap friendly so we need to modify our home. The only direction we can add on is to the sound end of our home. We can't add on to the back side due to a deck and pool currently existing and we don't have enough space to the north end of our home. The west (front side) isn't an option due to utilities. So we Kimberly and William J. Waterbury are asking you to seriously consider our urgent request for a Variance so we can work towards getting my Mother safely living a happy life in our home being able to ambulate freely. I personally thank you for your time.*

Mrs. Rector said the Warrick County Building Inspector, Dennis Lockhart submitted a letter stating *The property located at 822 Russell Road, Chandler, IN is owned by Bill & Kimberly Waterbury who is requesting a variance. The reason for the variance is for an addition they want to add to the house which is for Mrs. Kimberly Waterbury's mother, who is in a wheelchair. They are asking because with this addition there would be five (5) feet between the garage and the house versus the normal ten (10) feet. There is plenty of room to get around the garage for any type of emergency vehicle, including a fire truck in case of a fire. This variance would be beneficial in order to have Mrs. Waterbury's mother at home. I have visited this site and see no other way to build this addition without this variance. Thank you for your consideration in the matter. Dennis Lockhart, Warrick County Building Commissioner/ Inspector.*

Mrs. Rector said the application is in order.

Mrs. Waterbury said as a taxpayer she wants the Board to know this is the first time she has ever had to do anything like this and from the first phone call the office staff has worked with them and helped them through this entire process and she will be forever grateful. She further stated she has personally spoken with Karen Adams and she had no objection to this application. She said she doesn't know why the letter hasn't been claimed. She said she thinks she may be in poor health and asked what to do if she doesn't claim her letter.

Mrs. Rector said if she doesn't pick it up then the whole letter will be returned to them and they should bring in the unopened letter.

Mrs. Waterbury said she did get her mother out of Hamilton Pointe and she is currently in her own apartment but it is a constant worry and she needs someone to take care of her.

Mike Winge asked if they could attach the house to the garage.

Mrs. Rector said they were told they could do that.

Mrs. Waterbury said they decided this is the best, feasible situation. She said they will put a gate at the end of the house so they can get a wheelchair in there. She said they didn't want to just hook up a board and a shingle and say it was attached. She said that wouldn't look very nice and their neighbors take pride in their property. She said having the gate and fence will be the safest way to secure their back yard as well.

Mrs. Rector said it would take a common roof or wall so they couldn't just put up a couple of boards and some shingles and call it connected.

Attorney Doll asked if both structures are on their property and they are not trying to get any closer to any of the neighbor's property, it will not lessen the setback between the garage and any neighbor.

Mr. Waterbury said the buildings are on their property and they are not getting closer.

Attorney Doll asked if they have a fire or emergency could the vehicles get around their property.

Mr. Waterbury said they can and there is a lane to the north of their property that fire trucks could go down and so all sides of his property is accessible.

Attorney Doll said and they are also saying the utilities on the property are precluding them from adding on the front of the property as well.

Mr. Waterbury said that is correct.

Ascertaining there were no other questions from the Board and being no remonstrators present, the Chairman called for a motion.

Doris Horn made a motion to approve the Variance Application based upon and including the following findings of fact:

1. The grant of the Variance will not be injurious to the public health, safety, morals, and general welfare of the Community. As such, it is further found that the granting of the Variance shall not be materially detrimental to the public welfare.
2. The use or value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. As such, it is further found that the granting of the Variance shall not result in substantial detriment to adjacent property or the surrounding neighborhood.
3. The need for the Variance arises from some condition peculiar to the property involved. The peculiar condition constituting a hardship is unique to the property involved or so limited to such a small number of properties that it constitutes a marked exception to the property in the neighborhood. Such condition is both structures are owned by the applicants and so it won't affect the setbacks with any adjacent property owners; it will

not affect emergency vehicle access to the property in case of an emergency and the existing utilities and other improvements preclude the consideration for the use of the other areas of the lot.

4. The strict application of the terms of the Warrick County Comprehensive Zoning Ordinance will constitute a practical difficulty, unusual and unnecessary hardship if applied to the property for which the Variance is sought.
5. The approval does not interfere substantially with the Warrick County Comprehensive Zoning Ordinance adopted pursuant to IC 36-7-4-500 et seq.
6. The granting of the Variance is necessary in order to preserve a substantial property right of the petitioner to use the property in a reasonable manner, and not merely to allow the petitioner some opportunity to use his property in a more profitable way or to sell it at a greater profit.
7. That the hardship to the applicant's use of the property was not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of the Warrick County Comprehensive Zoning Ordinance.
8. The approval of the requested Variance is the least modification of applicable regulations possible so that the substantial intent and purpose of those regulations contained in the Warrick County Comprehensive Zoning Ordinance shall be preserved.
9. This Variance shall expire six (6) months after this date, UNLESS a Permit based upon and incorporating this Variance is obtained within the aforesaid six (6) month period or unless the provision of the Variance are adhered to within the aforesaid six (6) month period. Upon advance written application for good cause, a renewal for an additional six (6) month period may be granted by the Secretary of the Area Plan Commission.
10. The Variance Application is subject to the terms contained therein and the plans on file subject to the following additional conditions:
 - a) Subject to an Improvement Location Permit being obtained.
 - b) Subject to a Building Permit being obtained.
 - c) Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
 - d) Subject to all utility easements and facilities in place.

The motion was seconded by Mike Winge and unanimously carried.

The applicants were informed they could pick up their approval on Wednesday.

BZA-V-15-04 APPLICANT/OWNER: Sally Phillips

PREMISES: Property located on the E side of Fuquay Rd approximately 250 ft N of the intersection formed by Fuquay Rd and Telephone Rd. Ohio Twp. Parcel 2 in Double “S” Estates Minor. *Complete legal on file*

NATURE OF CASE: Applicant requests a variance from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow an Improvement Location Permit to be issued for a 12x32 ft. (384 sq.ft.) addition not meeting the minimum side yard requirement of 10 ft. (encroaching 3.40 ft.) in an “A” Agricultural zoning district. *Advertised in the Standard January 15, 2015.*

Sally Phillips and Bill Bivins, ACCU Survey were present.

The Chairman called for a staff report.

Mrs. Rector stated they have all green cards of notice of this meeting except for Tim & Debbie Meinert. She said they have the white pay receipt and according to the USPS website the letter was delivered January 3, 2015, but the green return receipt has not yet been returned. She said there is an existing single family dwelling on the property and the property to the north, south and east is zoned Agriculture with residences; to the west is Agriculture and “R-1A” with residences. She said there is no flood plain on the property and there is an existing driveway off Fuquay Road. Mrs. Rector said Double “S” Estates Minor Subdivision was done in 2009 and the minor showed the existing house being 22.5 feet off the north property line. She said on December 12, 2014, a permit was issued for a 12’x32’ addition based on those dimensions. She said the applicant states *The original survey plat shows that the existing residence was 22.8 feet off the property line. The house is actually 18.6’ off the property line. The footers were dug when this was discovered. We are requesting a variance to allow the addition to be 6.6 feet off the property line ; not 10 feet as required in an Agriculture zoning.* Mrs. Rector said in a residential zoning minimum side yard requirement is 6’ but in an Agriculture zoning the minimum side yard is 10 feet. She said the application is in order and Mr. Bivins, who did the plat is with the owner this evening.

Bill Bivins passed out some aerial photos to the Board. (copies on file.) He then stated he has given them a copy of the zoning in the area and they can see where he has marked their property and the zoning around the site is residential. He said the Comprehensive Plan calls for this area to be residential and if they look at the second page of his handout they see the property card for this property has them classified as residential and that is what they are paying taxes on. He said if the property was zoned residential they could be six feet off the line and that is what they are going to be 6.6 feet off the line. He said the only practical way to add on to this house, due to the layout of the inside of the home, is to the north.

Mrs. Rector said it used to be in the ordinance and she thinks it was something that was overlooked when the ordinance was redone, was you had to be ten feet off the property line if the width of your lot exceeded 100 feet. She said so in the old ordinance they could have been six feet off the line because their lot is only eighty feet wide, but that was not caught when the ordinance was updated.

Ascertaining there were no questions from the Board, the Chairman called for remonstrators.

Darla (Oxley) Rhodes said her father and mother own the property to the north. She said her father is in the hospital with her mother who has breast cancer and they couldn't be here tonight; however, she does have their power of attorney with her.

Attorney Doll asked to see the document and then clarified they own the property to the north. After reviewing the power of attorney he gave it back to Mrs. Rhodes and stated he feels it covers her being able to represent her parents at this meeting.

Mrs. Rhodes said nothing was said to her parents about them needing a variance before they started digging because if they had been told about it they would have been against it then too. She said they started digging and her father came home and found a backhoe in his yard. She said her parents purchased the property in 1964 and her father built their house. She said her parents also owned the house that Mrs. Phillips now owns. She said the property stakes have been moved.

Mrs. Rector said they are not going to get into accusations.

Mrs. Rhodes said she is here because her parents can't be and they are opposed to this Variance. She said they would like to have this continued to the next meeting so her parents can come. She said this property is zoned Agriculture and it should be ten feet off.

Richard Rhodes said the permit was issued as Agriculture property too.

Mrs. Rector said the permit was issued due the fact that it was certified on a recorded plat the distance between the house and the lot line and it met the ordinance; however, after the discussion of the property owner and Mr. Oxley, Mr. Bivins went back out and found there to be an error on the plat. She said that is why they started digging before any notices went out; they weren't trying to do something illegal, they thought they were legal.

Mrs. Rhodes said her father still doesn't want it that close.

Attorney Doll asked why.

Mrs. Rhodes said there is a lot of property and they can go to the other side of the house.

Attorney Doll asked if they know anything about the interior layout of this house.

Mrs. Rhodes said her father owned that house and she has been inside of it.

Attorney Doll said he thinks he heard in the petitioner's presentation this was the only location the addition could be constructed because of the interior layout of the home.

Bill Bivins said that is correct.

Mrs. Rhodes said that is not true.

Attorney Doll said they will see if that is addressed again. He said her objection is there are other areas for the addition. He said this is 1.54 acre lot but maybe it isn't if the north boundary line is incorrect.

Bill Bivins said the area is correct.

Attorney Doll said so their objection is there are other areas on the lot that an addition could be built. He asked if that is their only objection.

Mrs. Rhodes said yes; it won't be the ten feet.

Mr. Rhodes said it is going to be in front of their house.

Attorney Doll asked how it was going to be in front of her parent's home.

Mrs. Rhodes said her parent's house is up on a hill and this house sits down below.

Attorney Doll asked if her parent's home was very close to the boundary line.

Mrs. Rhodes said there is a driveway and pine trees between it and it is back farther.

Attorney Doll asked if the pine trees block the view of the...

Mrs. Rhodes said no.

Discussion ensued over the location of the Oxley home versus the Phillips home.

Attorney Doll said so their objection is the addition could go elsewhere.

Mrs. Rhodes said elsewhere or go back to the ten feet.

Attorney Doll said if they went back to the ten feet it would take four feet off the construction and so the addition would be eight feet wide instead of twelve feet wide which isn't much of an addition.

Ascertaining there were no other comments from the remonstrators the Chairman called for comments from the Board. Being none he asked for the petitioner's response.

Mr. Bivins said the building setback is twenty-five feet from the road right of way which is the same for the Oxley property. He said both of the houses set farther back from the road. He said the addition they are proposing will not affect theirs at all. He said the Phillips' have recently remodeled the inside of their home and after the remodeling; the only place to add on is to the

north. He said Mr. Rhodes met with him this morning and informed him he had a similar problem with his property in Indianapolis and had to get a Variance.

Mr. Rhodes said it wasn't about a property line, it was to put up a larger building and everyone agreed to it.

Mrs. Rector asked how many feet are between this addition and the Oxley house; is it 25 – 30 feet.

Bill Bivins said if they look at the copy of the subdivision and see where the fifteen foot jog is, the Oxley house sits within that portion of the property. He said it is approximately 70 feet.

Attorney Doll asked how that fifteen foot notch in the property came about.

Mr. Bivins said it was something Mr. Oxley wanted him to do with the subdivision.

Mrs. Phillips said the Oxley's have a big garage and when they bought this property the Oxley's wanted to keep the driveway to the garage. She said the driveway was supposed to be on her property but she agreed to let them cut it out. She said it was only supposed to be for a small area around the garage but it goes all the way to the back property line now. She said they didn't feel like fighting about it but now they are asking for a favor back.

Attorney Doll said so at the time the Phillips purchased the property from Sheldon and Phillis Oxley a fifteen foot notch into the straight property line setback – fifteen feet of land behind Mrs. Phillips' house was permitted to be kept by the Oxleys' and used by them but they now have an objection for Mrs. Phillips having the use of all of her property because she is four foot closer to the setback than allowed in an Agriculture zoning.

Mrs. Rhodes said the thing is when her parents sold her the property they chose to sell it with the notch in it and she agreed to it and there has never been anything added to it or taken away from it and it is in the original contract when it was purchased. He owned it all and when he sold it he put the notch in it.

Mrs. Phillips said he asked her if she would buy the property with the notch in it.

Mrs. Rector said she has a Google Earth photo that Jeff Valiant brought up on his phone. (Copy on file). She explained the location of both homes and accessory buildings to the Board. She also showed the photo to the Rhodes and they identified the buildings.

Attorney Doll said they said the addition will technically be in front of the Oxley house is because of the notch; technically the Oxley property comes in fifteen feet. He said that is more than the ten foot setback. He said isn't that why it is in front of the house as they testified?

Bill Bivins said the existing house, as it sets right now, is in front of the Oxley's, even without the addition.

Attorney Doll agreed according the Google photograph. He said they have a fifteen foot notch into the north side line of the Phillips' and it is virtually in front of it now.

Discussion ensued over the location of the houses and the property lines.

Bill Bivins said he believes they are talking about the distance each house is from Fuquay Road. He said if they look at it that way then the Phillips house is in front of the Oxley house because the Oxley house sets farther back from the road.

Ascertaining there were no other remonstrators present and being no comments from the Board, the Chairman called for a motion.

Mike Winge made a motion to approve the Variance Application based upon and including the following findings of fact:

1. The grant of the Variance will not be injurious to the public health, safety, morals, and general welfare of the Community. As such, it is further found that the granting of the Variance shall not be materially detrimental to the public welfare.
2. The use or value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. As such, it is further found that the granting of the Variance shall not result in substantial detriment to adjacent property or the surrounding neighborhood.
3. The need for the Variance arises from some condition peculiar to the property involved. The peculiar condition constituting a hardship is unique to the property involved or so limited to such a small number of properties that it constitutes a marked exception to the property in the neighborhood. Such condition is due to the error in the location of the north property on the plat at the time the home was sold and the requested Variance still exceeds the residential zoning district's side yard requirements which is prevalent in the area.
4. The strict application of the terms of the Warrick County Comprehensive Zoning Ordinance will constitute a practical difficulty, unusual and unnecessary hardship if applied to the property for which the Variance is sought.
5. The approval does not interfere substantially with the Warrick County Comprehensive Zoning Ordinance adopted pursuant to IC 36-7-4-500 et seq.
6. The granting of the Variance is necessary in order to preserve a substantial property right of the petitioner to use the property in a reasonable manner, and not merely to allow the petitioner some opportunity to use his property in a more profitable way or to sell it at a greater profit.
7. That the hardship to the applicant's use of the property was not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of the Warrick County Comprehensive Zoning Ordinance.

8. The approval of the requested Variance is the least modification of applicable regulations possible so that the substantial intent and purpose of those regulations contained in the Warrick County Comprehensive Zoning Ordinance shall be preserved.

9. This Variance shall expire six (6) months after this date, UNLESS a Permit based upon and incorporating this Variance is obtained within the aforesaid six (6) month period or unless the provision of the Variance are adhered to within the aforesaid six (6) month period. Upon advance written application for good cause, a renewal for an additional six (6) month period may be granted by the Secretary of the Area Plan Commission.

10. The Variance Application is subject to the terms contained therein and the plans on file subject to the following additional conditions:

- a) Subject to the Improvement Location Permit being amended with the correct plot plan.
- b) Subject to Building Permit being obtained/or amended.
- c) Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
- d) Subject to all utility easements and facilities in place.

The motion was seconded by Tina Baxter and unanimously carried.

The petitioners were informed they could pick up their approval on Wednesday.

SPECIAL USE:

BZA-SU-15-03 APPLICANT: Dan Fritts Properties, Inc. by James Fritts, Member

OWNER: I-164, LLC by Pamela Pearson, Sole Member

PREMISES: Property located on the N end of Covert Ct. approximately 1020 ft N of the intersection formed by Covert Ct. and SR 662 Frontage Rd. Lot 2B in I-164 Commercial Park No. 2, Ohio Twp.

NATURE OF CASE: Applicant requests a Special Use, SU23, from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow self-storage warehouse facilities with outside storage in a “C-3” Highway Commercial Zoning District. *Advertised in the Standard January 15, 2015.*

Jeff Willis said he was abstaining from discussion or voting on this petition.

Attorney Doll said he would like clarification that the applicant is Dan Fritts Properties, Inc and James Fritts, Member. He said James wouldn't be a member.

Kyle Rudolph, Attorney said James is a shareholder.

James Fritts said he is not a member or an officer but he does have a power of attorney.

Attorney Doll asked if a copy has been provided to the Board.

Mrs. Rector asked what position Dan Fritts holds to which James Fritts said he is the President. Mrs. Rector said and James has a power of attorney; however, their attorney is here to represent them.

Kyle Rudolph, said he is representing Dan Fritts properties as well as I-164, LLC and James Fritts has recorded the power of attorney.

Attorney Doll said they need a copy of it.

The Chairman called for a staff report.

Mrs. Rector said they still need a green receipt for Lawrence Bussell; ARBA Group Inc and Indiana Regional Council of Carpenters Joint Apprenticeship & Training Fund So. Region. She said they also failed to notice Cheryl Wasson but they have obtained a waiver of 21 day notice from her. She said all others have been submitted. She said mini storage buildings are a permitted use in a "C-3" zoning; however, the reason they filed this Special Use is to allow the open storage and they are proposing 30 outside storage units for RV's, boats, etc. She said the property is a lot in a recorded subdivision and it currently vacant and the property to the north is zoned "R-1 – Fall Creek Subdivision; to the east is R-1A – Colonial Hills; south is C-3 – lot 2A in I-164 Commercial Park #2 and to the west (across I-164) is zoned C-4- Interstate Office Park. She said they have storage buildings on the adjacent lot and this is an expansion of that business. Mrs. Rector said there is no flood plain on the property and added they will have to obtain a commercial driveway entrance off Covert Court and they are showing a driveway crossing over the legal drain to access the storage units. She said a condition on the lot was before any permits can be issued they need to submit drainage plan to the Drainage Board. She said they have submitted plans showing a retention area and plans to put a culvert in the legal drain in order for their driveway to cross the legal drain and those plans have been approved today. She said any approval should be conditioned upon the approved drainage plans. She said it is her understanding they will have to put in some retention and the Drainage Board allowed them to reduce the legal drain. She said the condition should be they abide by the approval of the Drainage Board. She said they will need to either complete the construction and then have the Co. Surveyor to sign off on the completion of said plans or they will need to put up a Letter of Credit to guarantee the cost of construction. She said their application is in order.

Kyle Rudolph said he is present this evening representing both Dan Fritts Properties and I-164 LLC. He said Pam Pearson is the sole member of the LLC and she has signed the sales documents conditioned upon the Special Use approval. He said he has provided staff with an

updated affidavit with the signed waiver from Mrs. Wasson as well as a green card from the ARBA Group. He said this Special Use they are seeking is to allow the outdoor storage. He said the factors under the Comprehensive Plan are whether the site is appropriate for the proposed Special Use and they think it is because it is an extension of the exact same business on the adjacent property. He said they don't think this Special Use will adversely affect the surrounding property, in fact, in some ways it is an improvement to the area. He said the residents that are adjacent right now have an unobstructed view and sound from the highway and what they are proposing to do will create a buffer between the many of the residences and highway. He said Mr. Fritts has met with the adjacent property owners and none have expressed any reservations about the plan. He said in 2009 when the original storage units went in, some residents did remonstrate and Mr. Fritts has spoken with them since then and they are pleased with the situation. He said the property is zoned "C-3" and there is a number of uses this property could have without a Special Use and they think this particular use will have a low level of traffic associated with it and will not disrupt the neighboring residents. He said for those reasons they think the Special Use is in harmony with the Comprehensive Plan and they feel it is an adequate and appropriate use and he requested the Board to approve the application.

James Fritts had nothing further to add.

Mrs. Rector said the plot plan is showing a sixty foot berm and landscape easement which is also on the recorded plat. She asked if there are trees along the berm in this section now or are they planning on putting up trees.

James Fritts said there will be two rows of pine trees planted every twenty feet and they will stagger them on both sides so there will basically be a pine tree every ten feet. He said they have maintained the front berm over the years and have replaced trees three times if some died. He said they intend to do the same thing here. He said they plan on putting the berm and trees in to the end of their development, which will be about half of the property.

Mrs. Rector said the Board could also add that as a condition of the Special Use approval as well.

James Fritts said it is part of the covenants of the property as well.

Attorney Doll questioned whether the motor homes and boats would be able to be hidden behind a solid opaque fence. He asked if the area is going to be in the back of the lot.

Mr. Fritts approached the Board and explained the drawing. Several members spoke at once.

Mike Moesner has what was existing and what is proposed and if there would be a roof.

Mr. Fritts explained and said there will be no roof over them, it will just be a fenced off area. He explained the heights.

Several members spoke at once. Mrs. Rector said they have to speak one at a time in order to type the Minutes.

Mr. Fritts said there is a question over the height of the buildings. He said the RV storage will have fourteen foot openings and when you figure the pitch of the roof you can be 16-18 feet high. He said the mini storage units will have eight foot openings and so those buildings will be about 10-12 feet high.

Mrs. Rector said so the “open storage” will be under a structure.

Mr. Fritts said there will be a covered RV/ boat storage and the “open air” storage will just be in the rock area.

Ascertaining there were no other questions from the Board, the Chairman called for remonstrators.

Lana Brown, 10809 Tecumseh Drive said she welcomes them as neighbors. She said they keep their properties neat and she has no problems with them and they have explained everything to the neighbors. She said she will appreciate the lighting and they have been good neighbors. She said she has lived there for over five years and has no problems with them at all.

Stacey Ulrich, 10833 Williamsburg Dr. said her property backs up to the berm and she wants to know how high the berm will be. She said they spoke with her husband one night when she was gone and she was just wondering about the RV heights. She said she wants to know how tall the berm will be.

Mr. Fritts said the berm currently in place is about five feet tall and then they plant three foot tall pine trees on top of that. He said of course the trees will grow taller and if she would look at the ones to the south of her they will get to about twenty feet high. He said that depends on the weather.

Mrs. Ulrich said she didn’t even think about looking at the area they already did. She said so that berm is about five feet tall.

Mr. Fritts said the berm is about five feet tall.

Mrs. Ulrich said and the trees will grow. She said that was her concern and they have gotten used to having nothing back there and now thinking about ...but it is better that what could be.

Ascertaining there were no other remonstrators present and being no other questions from the Board the Chairman called for a motion.

Tina Baxter made a motion finding of fact be made as follows from the testimony and proposed use statement:

1. The USE is deemed essential or desirable to the public convenience or welfare.
2. The USE is in harmony with the various elements or objectives of the Land Use Plan for Warrick County.

3. The USE will not be a nuisance or serious hazard to vehicles, pedestrians, or residents.
4. The USE as developed will not adversely affect the surrounding area.
5. Adequate and appropriate facilities will be provided for proper operation of the USE.
6. The specific site is appropriate for the USE.

And the Application be approved in accordance to the application and plans on file, subject to the following conditions:

1. Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
2. Subject to all public utility easements and facilities in place.
3. Subject to the outside storage being enclosed with a six foot high solid wall or opaque fence.
4. Subject to an Improvement Location Permit being issued.
5. Subject to any required Building Permit. (State or Local)
6. Subject to a commercial driveway permit being obtained and the entrance being constructed or a letter of credit submitted to insure the construction of the commercial driveway.
7. Subject to Drainage Plan approval and security being posted to cover cost of construction or work being completed prior to any Improvement Location Permits being issued.
8. Subject to them abiding by their commitment with the landscaping (berm and trees) as in place on Lot 2A.

The motion was seconded Mike Moesner. Jeff Willis abstained and all other members voted for the motion.

The petitioners were told they could pick up their approvals on Wednesday.

ATTORNEY BUSINESS:

None.

EXECUTIVE DIRECTOR BUSINESS:

None.

Being no other business the meeting adjourned at 7:15 p.m.

Jeff Valiant, Chairman

ATTEST:

The undersigned Secretary of the Warrick County Board of Zoning Appeals does hereby certify the above and foregoing is a full and complete record of the Minutes of the said Board at their monthly meeting held January 26, 2015.

Sherri Rector, Executive Director